



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/883,557	06/26/97	ALBERT	H ALBERT-6-6-5

MORGAN & FINNEGAN
345 PARK AVENUE
NEW YORK, NY 10154

LM11/0217

EXAMINER
ZIMMERMAN, B

ART UNIT	PAPER NUMBER
2735	20

DATE MAILED: 02/17/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/883,557

Applicant(s)

Albert

Examiner

Brian Zimmerman

Group Art Unit

2735



☒ Responsive to communication(s) filed on Nov 6, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 13-49 and 61-68 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 13-49 and 61-68 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

EXAMINER'S RESPONSE

Status of Application.

1. In response to the applicant's amendment received on 11/6/98. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 13-49,61-68 are unpatentable for the reasons set forth in this office action:

ART REJECTION

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 13-15,20,28-30,43-45,48,49,60,61-65 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Busch (5408513).

Busch shows a financial transaction device 110 connected to a wireless adaptor 112 to convert data to a different format. Busch also shows a first wireless modem 124 which sends data over a wireless media (antenna on element 124). The data is received at a "host" which includes another (or second modem) and first communication means to communicate to a computer and authorization processor. The adaptor includes an audio frequency modem 126 as claimed.

4. Claims 16-27,31-42,46,47 are rejected under 35 U.S.C. § 103 as being

unpatentable over Busch as applied to claims 13,28,43 above, and further in view of common knowledge in the art. The examiner takes official notice that the devices claimed (claims 16,17,31,32,46,47) are well known devices equivalent to the devices taught by Rogge. The examiner takes official notice that the networks claimed (claims
5 19-27,34-42) are well know networks equivalent to the networks taught by Rogge.

Furthermore, the extent of disclosure the applicant provides is evidence of the fact that the applicant believes that the types of network (or types of device) are known to the artisan. The applicant has not invented these specific networks (or devices).

Regarding claims 18,33, the references, discussed above, discloses the claimed

10 invention except for having the claimed elements in a single computer system. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place all these elements in a single computer, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S.
15 164 (1893). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized any of the claimed networks (or devices) in the above modified system since that would have been equivalents to the elements used in the above modified system.

20 5. Claims 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busch as applied to claims 13,18,28 above, and further in view of Buffered.

In an analogous art, Buffered discloses a method and apparatus for transmitting communication information for wireless systems that includes a data compression circuit to compress digital data where the communication processor compresses digital data to the wireless modem via the transmission media and communication means.

5 Buffered further discloses a data encryption circuit to encrypt digital data and the processor encrypts digital data to the wireless modem via the transmission media and communication means. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized a compression and encryption circuit(s) for providing secure communication of financial data between the transaction
10 device and the host in the above modified system.

REMARKS

Response to Arguments.

15 The following discussion is introduced in direct response to the arguments presented in the instant amendment:

6. The applicant believes that the claimed invention differs from the prior art of record for the following reasons:

20 a. The applicant argues that Busch's element 112 does not convert data from one format to another format.

b. The applicant argues that Busch's elements cannot be characterized as set forth in the rejection.

c. The applicant argues that there is no suggestion in Buffered to combine with Busch.

5

7. Regarding the applicants arguments the examiner points out the following:

a. Busch's element 112 does convert data from one format to another format. It is pointed out that the input to element is in the form of standard RJ11 and the output is in the standard RJ48.

10

b. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The applicant has not pointed out why the elements discussed differ from the elements claimed.

15

c. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the reasoning is

20

clearly set forth in the rejection.

8. The terminal disclaimer filed on 11/6/98 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of a
5 patent granted to application 08/647362 has been reviewed and is accepted. The terminal disclaimer has been received and accepted.

Accordingly, **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 C.F.R.

10 § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE
15 MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION
20 FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

08/
2735

7

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Zimmerman whose telephone number is (703) 305-4796.

- 5 Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.



**Brian Zimmerman
Patent Examiner
Art Unit 2735**

10

703-305-4796
January 07, 1999